



## Minutes City Council Issue Review Session April 5, 2007

Minutes of the Tempe City Council Issue Review Session held on Thursday, April 5, 2007, 6:00 p.m., in the City Council Chambers, Tempe City Hall, 31 E. Fifth Street, Tempe, Arizona.

### COUNCIL PRESENT:

Mayor Hugh Hallman

Vice Mayor Hut Hutson

Councilmember P. Ben Arredondo

Councilmember Barbara J. Carter

Councilmember Shana Ellis

Councilmember Mark W. Mitchell

Councilmember Onnie Shekerjian

*Mayor Hallman called the meeting to order at 6:20 p.m.*

### Call to the Audience

No one came forward to speak.

### Code Violation Update

INFORMATIONAL BACKGROUND available in City Clerk's Office.

DISCUSSION – Presenters: City Attorney Andrew Ching; Presiding Judge Louraine Arkfeld

City Manager Andrew Ching summarized that Council had directed staff to return with an update from the Prosecution/Adjudication side of the code issue.

Presiding Judge Arkfeld summarized that statistics for the current fiscal year, as of March 31, 2007, show 415 cases have been filed. Of those, only 4 were filed as criminal filings, with one concluded and 3 pending. There have been 411 civil filings. Of those, 395 have been concluded, with 16 pending (2 filed in February and 14 filed in March). She summarized the civil process.

- The civil citation is filed.
- After the code enforcement officer sends the ticket, arraignment is set within 10 days.
- If a hearing is requested at the arraignment, it is set within 3 weeks.
- If found responsible at the hearing, the fine is set.

- If defendant fails to appear, a letter is sent to the defendant and Code Enforcement returns to the property to check compliance.

Mayor Hallman asked if the assessed fines are assessed against the property.

Judge Arkfeld responded that the citation is issued to the owner of the property.

Mayor Hallman clarified that a person is responsible for the fine associated with the property. He suggested seeking to change the process to allow the City to assess the fines against the property which might be one way to deal with defendants who fail to appear. There are some who make it all the way through the process, a fine is set against them, they clean up the property, and then it all starts over again. He asked staff to return with a recommendation for a process that would truncate the process. The issue is about due process. Maybe property with an habitual offense could have some kind of requirement that it must remain un-offensive for a certain period of time and if it doesn't, is brought back in to address the problem.

Judge Arkfeld responded that one alternative would be to file criminally against them. The defendant would then have to plead guilty or be convicted at trial and placed on probation. If there is a violation, there could be a probation revocation process which is less burdensome.

Mayor Hallman clarified that he was speaking about the property and asked if there is a way for jurisdictional retention so a property could be brought back in.

Mr. Ching responded that these kinds of properties are usually the ones that end up in an abatement process. With abatements, we go out and haul away most of the junk, but the junk repopulates. Staff is working with Code Compliance to address that issue by having an abatement period longer than one day. The abatement can start, for example on April 1, and run through June, so the property owners are on notice that we can return and continue to reassess them over a specified period of time.

Mayor Hallman clarified that there is a way to retain jurisdiction.

Mr. Ching agreed and added that it's just a question of how the abatement order is issued by our hearing officer. The City reserves the right to come back, re-inspect and re-abate.

Mayor Hallman suggested finding a way to make the abatement a longer period of time.

Mr. Ching added that the City doesn't typically use an abatement unless the situation involves a health hazard or a repeat offender.

Councilmember Carter asked what happened to the 144 who failed to appear.

Judge Arkfeld responded that those were the ones that defaulted. We assess a fine, they don't pay, and it usually goes to collection. Sometimes people just don't receive the summons, so a second citation is filed. They might appear on the second one and discover they have the first one.

Councilmember Carter asked what happens if someone fails to appear for a traffic fine.

Judge Arkfeld responded that the process is the same. It defaults, a fine and fees are assessed, and a letter is sent notifying the party that it will go to collections. The difference with a civil traffic citation is that notice also goes to the Department of Motor Vehicles and the driver's license is suspended.

Mayor Hallman suggested a similar equivalent concept for properties.

Councilmember Arredondo added that the City should be able to put a lien on the property. He asked how long that takes and whether it could be shortened.

Mr. Ching responded that it is due process. We have to make sure the defendant has an opportunity to appear before a hearing officer. The Arizona Supreme Court held in January that in civil infractions if an attorney appears on behalf of a defendant and is successful, attorney fees could be levied against the entity. In his opinion, that is an interpretation of a current statute that begs for a legislative change. Potentially, the only way to avoid that outcome would be to file criminally because there are specific exemptions for attorney fees for criminal filings. The end result is that if we are concerned about the hardcore offenders, we would have to do more criminal filings and these numbers would change.

Judge Arkfeld added that virtually no attorneys currently appear on the civil citations. It is typically the hardcore cases that get filed criminally. The fact that there have only been four (4) criminally filed in this fiscal year tells us that the vast majority of problems are being handled.

#### **CONSENSUS**

**Staff was directed to return with recommendations for repeat offenders. Staff was also asked to keep Council posted on the legislative aspect.**

**Follow-up Responsibility: Andrew Ching**

## **Neighborhood Traffic Management Program Update**

INFORMATIONAL BACKGROUND available in City Clerk's Office.

DISCUSSION – Presenter: Public Works Manager Glenn Kephart; Traffic Engineer Shelly Seyler

Glenn Kephart presented a draft of the updated Neighborhood Traffic Management Program which fulfills Council's goal to better serve neighborhoods by addressing traffic problems. This has come through the Neighborhoods Quality of Life, Public Safety and Parks & Recreation Committee and the Transportation and Affordable Housing Committee.

Mayor Hallman added that Council has been attempting to develop tools for neighborhood cut-through traffic and speeding issues, and this manual is a unique model for communities to deal with these problems. For neighborhood leaders who are interested in addressing these issues, the manual is currently available on the

City's website at [www.tempe.gov/tim](http://www.tempe.gov/tim). The manual outlines twenty different concepts for neighborhoods to re-plan streets in cost-effective ways to help eliminate cut-through traffic and speeding. He congratulated staff for their diligent work.

Vice Mayor Hutson added that this is a great manual. It is very informative.

Councilmember Shekerjian agreed. It contains great suggestions for a working process with neighbors. She suggested sharing this with the neighboring cities.

Mr. Kephart agreed that it could be presented to the Maricopa Association of Governments (MAG) committees.

Vice Mayor Hutson added that maybe the City could retain the rights and sell it.

#### **CONSENSUS**

**Approved as presented.**

**Follow-up Responsibility: Glenn Kephart**

## **High School Speed Zone Update**

INFORMATIONAL BACKGROUND available in City Clerk's Office.

DISCUSSION – Presenters: Public Works Manager Glenn Kephart; Traffic Engineer Shelly Seyler

Glenn Kephart stated that staff recommends leaving the speed zones as they are.

Vice Mayor Hutson stated that this is a great document. The only way to change people's driving habits is to hit them in their pocketbooks. It doesn't make any difference how large the sign is. People are still driving through school zones at 50 mph when the radar van is not there. He suggested not putting up the sign that warns of photo radar in school zones.

Councilmember Carter asked if the traffic lights before and after the speed zone are timed so that if a driver is speeding, he will be stopped by a red traffic light.

Mr. Kephart responded that they are not timed intentionally. Lights are set at 38 mph. Slowing down to 35 mph in the speed zone would average out closer to that 38 mph, so it's not much of a loss of time. The lights are not adjusted because it is a school zone.

Mayor Hallman stated that, notwithstanding the cost associated with the maintenance of the flashing lights, he understood there are differences in starting and ending times for schools, but adding that feature might help identify and change the environment so drivers would know, at least during the school times, when children would most likely be present. We can then choose the speed zone periods when the flashing light signs are in operation.

Councilmember Arredondo agreed. It goes along with the educational process and he is not opposed to the flashing lights in the school zones. That's the first step. A flashing light catches attention.

Vice Mayor Hutson stated that the flashing lights cost \$3500 each. With one at each end, multiplied by the number of streets by the schools, multiplied by the six schools, it represents a significant cost. State law only requires a sign to be posted when the speed limit is 40 mph or above and there is no requirement for anything in school zones.

Councilmember Arredondo added the lights could be flashing 24 hours a day and it would be a permanent installation. It would be education at its best. A radar van moves.

Councilmember Shekerjian clarified that staff would return with a myriad of ideas, and not just address the flashing lights. She would also like staff to research what other cities are doing.

Mr. Kephart clarified that Council would like to maintain the 24/7, but staff should consider additional measures to make it even more visible and provide more information on how to enhance awareness of drivers' risks in speeding.

#### **CONSENSUS**

**Staff was directed to maintain the 24/7 speed zones, and to return with proposals on flashing lights, cost, and a variety of ideas to enhance awareness of the risks of speeding.**

**Follow-up Responsibility: Glenn Kephart**

## **Parking Rates and Fines**

INFORMATIONAL BACKGROUND available in City Clerk's Office.

DISCUSSION – Presenters: Deputy Public Works Manager Carlos de Leon; Presiding Judge Louraine Arkfeld; Chris Wilson, DTC

Carlos de Leon introduced Chris Wilson, DTC, and Presiding Judge Louraine Arkfeld. The DTC is specifically requesting direction on increasing parking meter rates from 75 cents per hour to \$1.50 per hour for the on-street meters.

Councilmember Shekerjian asked for the time limit on the meters and how validation is done.

Chris Wilson responded that the time limit is 80 minutes. Part of their proposal is to have the ability to adjust that based on demand. Parking management is about finding an 85% occupancy rate. There are areas that are 50% full, and he would propose extending those areas to two hours. Other areas are 100% full, so he would propose keeping those at 80 minutes and affect their usage by rate. The validation program is voluntary by all property owners who own parking in the downtown area. As a cooperative, everyone has agreed to a two-hour free parking validation, measured in 15-minute increments. If someone is parked two hours, it will be free with validation. If they are parked 2 hours and 2 minutes up to 2 hours and 15 minutes, it will be 75 cents.

Councilmember Shekerjian added that she supported the concept of a tiered fine payment structure. She asked about the pay-box locations.

Mr. Wilson responded that some revenue tax would have to be used to put in pay stations to encourage people to pay immediately. The amount of the fine is governed by the courts.

Councilmember Shekerjian asked about the recommendation of a 5-minute grace period. She suggested extending that to 10 or 15 minutes.

Mr. Wilson responded that the grace period is an ongoing issue. The meters could be programmed to provide an extra 5 minutes. Increasing the time to 10 minutes equates to 90 minutes on an 80-minute meter. That makes the space much more inviting for students. Though we want to attract student to the downtown shopping environment, we don't want students utilizing our customer spaces for attending class at ASU. With 90 minutes, they could make it to class.

Mayor Hallman explained that the reason for the 80 minute time limit is because it makes it very difficult for students to park in the downtown for much less than they have to pay on campus, get to class, take the class, get back, and move their car before they get ticketed. We have to face the reality that parking spaces are a desirable commodity in the downtown and some people want to use them, not to be in the downtown, but to avoid paying for their parking at ASU. ASU has increased its parking charges, making it attractive for students to park in the downtown, particularly the southeast part of downtown. That makes it very difficult for businesses to accommodate their customers. He asked if the recommended change to two hours would be for the northwest side, and would that mean a different metered rate there as well. Could we have signs on the meter so it is clear it is a \$1.50 meter or a 75-cent meter?

Mr. Wilson responded that the only reason they didn't consider variable times is because it seems unfair to designate businesses in one area to have more expensive parking than other areas. As development moves to the north, there might be an opportunity to reduce the time from 2 hours to 90 minutes. Council has more flexibility with time limits versus rates.

Councilmember Shekerjian suggested that this information be added to the City website in the area where parking tickets are listed so citizens will know the rules. She appreciated the list that shows where the fine money goes.

Councilmember Arredondo noted that the parking lot by City Hall was already full by 7:30 a.m. He has been told that it is because the DTC doesn't have someone in the booth. He was also told that jurors park there. I think we have an obligation to keep that area as vacant as possible for people who want to do City business. They expect to come down, park and take care of their business.

Mr. Wilson responded that the DTC could staff the booth at 7:30 a.m. and they are making plans to do that. They want to be fiscally responsible and make sure the revenue matches expenses. The people who do come in at 7:30 are typically there for City business. The people at 8:30, 9:30 or 10:00 are not. There's no revenue

because of the two hours of validation early in the morning. The loss of the parking lot for the Police/Courts has driven the jurors and people going to court to the City Hall lot. They want to look at ways to effect lot rates in the future to prevent some of that ASU traffic without being burdensome on their customers. They will be coming back to Council with those recommendations. Short term, they are planning to staff the booth earlier and are planning to change their hold rates to 25 to 30 spaces versus 10 to 15.

Judge Arkfeld added that jurors only report three days and sometimes not even that often. Every morning there is an arraignment docket and that is the nearest place to park.

Councilmember Arredondo asked Mr. Wilson to work with the City Manager. He asked about the parking garage across from Mission Palms where he has counted up to 50 empty spaces. We may have to help the Courts during construction.

Judge Arkfeld added that at 8:30 a.m., there wouldn't be an empty place in the garage. It is shared with the hotel, as well as employees.

Mayor Hallman explained that due to parking variances being given in the decade of the 1990's, there is a shortage of parking downtown. In the CIP debate earlier today, a funded, new parking garage on the east side of City Hall at a cost of about \$12M was identified. It will add another 180 spaces to the City Hall parking facility. In the short term, we are dealing with the fact that the Police/Courts building lost its parking lot to the Transit Center being built, and clearly, we have more work to do to get this resolved. He asked the City Manager to pull the Public Works team together again and see what options might exist to help reduce demand.

Councilmember Ellis asked Judge Arkfeld about the 80% State Surcharges.

Judge Arkfeld responded that it means that if the fines are raised \$1, they are actually raised \$1.80.

Councilmember Ellis asked where the money in the meter goes.

Mr. Wilson responded that the money is managed by DTC and at the end of the year, any net revenues are given back to the City into the general fund for "repayment" of the capital cost fronted for the installation of the meters.

Mayor Hallman further explained that the City fronted \$1M to the DTC and, over time, that is being refunded.

Councilmember Ellis asked about the money from the parking lots.

Mr. Wilson responded that the parking lots are privately owned, for the most part. For example, Centerpoint gets to keep all of their net revenue because it is theirs. The DTC manages it and a management fee is attached to that. The bottom line net revenue to the parking operation from that garage is actually given back to the City as part of the overall program. The DTC does not claim any net revenue from that garage.

Mayor Hallman asked Mr. Wilson what he thought was the net outstanding fronted money.

Mr. Wilson responded that he thought it was approximately \$550K. In traditional parking operations, all of the revenues are put together and all of the costs are taken out. In this case, parking enforcement is performed by the City's police department and the courts handle the administration of the fines. Yet, the City has a net revenue source of approximately \$500K per year, so since the meters were installed, several million dollars have been raised. If that were all applied to the program cost, then that \$550K would probably be a moot point.

Judge Arkfeld added that a standard metered parking fine comparison to other area cities with metered systems was undertaken. The study revealed that the fines are similar in the beginning, but vary over time. For Tempe's fines, there is typically a 7-day period to pay the initial citation. After 7 days, the City obtains the name of the vehicle owner through the DMV, which takes from two to four weeks. A summons is then sent out to the registered owner and an arraignment date is set out three to four weeks. During all of that time, the fine remains at \$28. It is not until the defendant fails to appear at the arraignment that it becomes \$48.

Mayor Hallman asked if there was a reason not to change it to the Phoenix model which shows that the fine increases after 21 days.

Judge Arkfeld responded that the Tempe system works well because the City knows the person has gotten notice of the ticket.

Councilmember Carter added that several years ago a Council committee addressed the issue of ASU football games during the day on Saturdays. There were complaints that people would tailgate and use two or three spots. When time ran out, they would get large fines. She asked if those are still being ticketed.

Mr. Wilson responded that the issue was that all of the lots would fill up with the event parkers during a football game, leaving no spaces for the regular downtown customers to use. By maintaining the meters, the hope would be that those meters would be used by regular customers.

Councilmember Carter clarified that they were concerned with the City Hall lot.

Councilmember Arredondo clarified that ASU continues to change their game times. They range from noon to evening. At night there wouldn't be a problem.

#### **CONSENSUS**

**Allow the DTC to address the parking times and have the flexibility to increase the parking fee to \$1.50 per hour.**

**Follow-up Responsibility: Glenn Kephart**

## **Traffic Control Fees**

INFORMATIONAL BACKGROUND available in City Clerk's Office.

DISCUSSION – Presenters: Public Works Manager Glenn Kephart; Deputy Public Works Manager Carlos de

Leon

Mayor Hallman summarized that Public Works is asking for direction to impose the new Traffic Control Fee Schedule with respect to construction occurring in the roadways and asking for referral to the Finance, Economy & Veterans Affairs Committee for implementation.

### **CONSENSUS**

Referred to Council's Finance, Economy & Veteran Affairs Committee.  
Follow-up Responsibility: Glenn Kephart

## **Agency Review Recommendations**

INFORMATIONAL BACKGROUND available in City Clerk's Office.

DISCUSSION – Presenters: TCC Executive Director Kate Hanley

*(Councilmember Ellis left the table during the Agency Review Recommendations as she previously served at TCC and felt she had a conflict of interest.)*

Mayor Hallman summarized that the Tempe Community Council (TCC) goes through an extraordinary process of reviewing agencies seeking public service dollars from the TCC. The TCC makes recommendations to Council. The final recommendation is \$1,163,602, with \$858,229 from the general fund, \$245,373 from CBDG, and \$60,000 from Help To Others (H2O). He extended Council's great appreciation to the dozens of volunteers who participated in the agency review. This is an extraordinary review.

Councilmember Carter stated that there still is a need for a matching partner for the H2O program. If anyone would like to match the \$60K, they should contact Kate Hanley.

Kate Hanley introduced TCC Board members Nikki Amber (Agency Review Chair), Arline Chin, Steve Bauer and Dr. Kate Spielmann, as well as guests from Tempe Youth Leadership. She thanked Council for their support.

### **CONSENSUS**

Approved as presented.  
Follow-up Responsibility: Kate Hanley

*(Councilmember Ellis returned to the table..)*

## **CDBG/HOME Program Selection of Activities (07/08)**

INFORMATIONAL BACKGROUND available in the City Clerk's Office.

DISCUSSION – Presenters: Community Development Manager Chris Salomone; Housing Services

Administrator Liz Chavez

Mayor Hallman summarized that the proposed CDBG program activities for funding for 2007-2008 total \$1,635,822 in CDBG anticipated funds to be received and distributed among eight different concepts, \$487,711 of HOME funds to be allocated to three different programs, and \$12,919 in American Dream Down Payment Initiative funds.

#### **CONSENSUS**

**Approved as presented.**

**Follow-up Responsibility:** Chris Salomone

#### **Formal Council Agenda Items**

No agenda items were discussed.

#### **Future Agenda Items**

None.

#### **Mayor's Announcements/Manager's Announcements**

- City Manager Will Manley recognized Valerie Hernandez, Human Resources Manager, for her twenty years as a City of Tempe employee.
- Mayor Hallman reminded citizens of "Pat's Run" on Saturday.

*Meeting adjourned at 7:08 p.m.*

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Jan Hort  
City Clerk